

TITLE 7

PUBLIC PEACE, SAFETY AND MORALS

Chapters:

- 7.04 State Criminal Statutes and Penalties
- 7.08 Curfew
- 7.12 Loitering
- 7.16 Firearms and Bows
- 7.17 Fireworks
- 7.20 Claims against City
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- 7.36 Pea Ridge Community Library
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- 7.45 Prohibition Of Marijuana Smoking In Public Places

CHAPTER 7.04

STATE CRIMINAL STATUTES AND PENALTIES

Sections:

- 7.04.01 State criminal statutes adopted
- 7.04.02 State penalties adopted

7.04.01 State criminal statutes adopted All criminal statutes of the state relating to misdemeanors and violations of the laws of criminal procedure in connection therewith, three (3) copies of which are on file in the Recorder/Treasurer's office, are hereby enacted by the City Council to form a part of the laws of the city and any person, firm or corporation being found guilty of the violation of any such laws shall be deemed guilty of the violation of the ordinances of the city, and shall be fined or imprisoned or both in the manner set out under the state statutes. STATE LAW REFERENCE - See A.C.A. 14-55-501

7.04.02 State penalties adopted The same minimum and maximum penalties for the violation of misdemeanors and violations as are provided in the state statutes are hereby adopted as the minimum and maximum fines for the violation of the same offenses which are prohibited by the ordinances of this city. STATE LAW REFERENCE - A.C.A. 14-55-502

CHAPTER 7.08**CURFEW****Sections:**

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| 7.08.01 | Definitions |
| 7.08.02 | Hours of curfew |
| 7.08.03 | Juveniles |
| 7.08.04 | Parent's responsibility |
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7.08.01 Definitions

Streets shall mean any alley, thoroughfare, pathway, or other course of travel open to the public.

Highway shall include any road, lane, dock, wharf, or any terminal or continuance of a roadway open to the public.

Public places shall include, but is not limited to, places of amusement, parks, playgrounds, dance halls, and similar premises open to the public.

Parent or guardian shall mean the actual parent or legal guardian or a person that has the care, custody or control of such minor by consent of the parent or legal guardian or by court action.

Masculine gender as used in this ordinance shall include the feminine gender and singular shall include plural. (Ord. No. 59, Sec. 1.)

7.08.02 Hours of curfew It shall be and it is hereby declared to be unlawful for any person under the age of sixteen (16) to congregate, loiter, (or be on the streets), highways, in public places, or upon unoccupied premises or grounds in the city of Pea Ridge, between the hours of 9:30 o'clock p.m. and 6:00 o'clock a.m., Sunday through Thursday, and 10:30 o'clock p.m. and 6:00 o'clock a.m., Friday and Saturday, and for persons under the age of eighteen (18) between the hours of 10:30 o'clock p.m. and 6:00 o'clock a.m., Sunday through Thursday, and 12:00 o'clock a.m. and 6:00 o'clock a.m., Friday and Saturday. These regulations shall apply unless such person is accompanied by his parent or legal guardian or is sent by his parent or guardian on some urgent business or errand which renders it necessary for him to be abroad after the hours herein mentioned in which case such person shall personally have with him the written consent of his parent or guardian; PROVIDED: That nothing in this section shall be interpreted as prohibiting minors from traveling over or along public streets by direct route to and from work in the regular course of employment where such occupation and employment has been approved by authorities under procedure outlined by statute and such minor has in his possession evidence of such approval. (Ord. No. 416, Sec. 1.)

7.08.03 Juveniles It shall be unlawful for any minor under the age of eighteen (18) years to congregate or loiter upon the streets, highways, in public places, or upon unoccupied premises or grounds in the city of Pea Ridge during the hours stated in Section 2. (Ord. No. 59, Sec. 3.)

7.08.04 Parent's responsibility It shall be unlawful for any parent or guardian as defined herein, willfully or negligently, to permit a minor under the age of eighteen (18) who is subject to his custody to violate any of the provisions hereof, nor shall any such parent or guardian aforesaid issue a written consent as provided in Section 2 except in cases of necessity. (Ord. No. 59, Sec. 4.)

7.08.05 Other responsibilities It shall be unlawful for any person not the parent or guardian as defined hereunto accompany, congregate, or loiter with any minor on any public street, highway, in public places, or upon unoccupied premises in the city of Pea Ridge except by and with the express consent of the parent or guardian. (Ord. No. 59, Sec. 5.)

7.08.06 Fine Any person violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not to exceed \$25.00. PROVIDED: That any person under the age of eighteen (18) years shall be dealt with according to the appropriate juvenile laws of the State of Arkansas. (Ord. No. 59, Sec. 6.)

7.08.07 Time The hours indicated in this ordinance are with reference to the standard time prevailing in the city of Pea Ridge, Arkansas, from period to period, whether it be what is commonly accepted as Central Standard Time, Central Daylight Saving Time, or Central War Time. (Ord. No. 59, Sec. 7.)

CHAPTER 7.12

LOITERING

Sections:

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|---------|-------------|
| 7.12.01 | Illegal |
| 7.12.02 | Definitions |
| 7.12.03 | Penalty |

7.12.01 Illegal. It shall be unlawful for any person to loiter upon the sidewalks, streets, highways, alleys or other public places within the city.

7.12.02 Definitions.

- A. A person commits the offense of loitering if he:
1. lingers, remains or prowls in a public place or on the premises of another without apparent reason and under circumstances that warrant alarm or concern for the safety of persons or property in the vicinity; and upon inquiry by a law enforcement officer, refuses to identify himself and give a reasonably credible account of his presence and purpose; or
 2. lingers, remains, or prowls in or near a school building, not having any reason or relationship involving custody of or responsibility for a student, and not having written permission from anyone authorized to grant the same; or
 3. lingers or remains in a public place or on the premises of another for the purpose of begging; or
 4. lingers or remains in a public place for the purpose of unlawfully gambling; or
 5. lingers or remains in a public place for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual activity; or
 6. lingers or remains in a public place for the purpose of unlawfully buying, distributing, or using a controlled substance; or
 7. lingers or remains on or about the premises of another for the purpose of spying upon or invading the privacy of another.
- B. Among the circumstances that may be considered in determining whether a person is loitering are that the person:
1. takes flight upon the appearance of a law enforcement officer; or
 2. refuses to identify himself; or
 3. manifestly endeavors to conceal himself or any object.
- C. Unless flight by the actor or other circumstances make it impracticable, a law enforcement officer shall, prior to an arrest for an offense under subsection A (1) of this section, afford the actor an opportunity to dispel any alarm that would otherwise be warranted by requesting him to identify himself and explain his presence and conduct.

- D. It shall be a defense to a prosecution under subsection A (1) that the law enforcement officer did not afford the defendant an opportunity to identify himself and explain his presence and conduct, or if it appears at trial that an explanation given by the defendant to the officer was true, and if believed by the officer at that time, would have dispelled the alarm.

7.12.03 Penalty As set out in A.C.A. 5-71-213, loitering is a Class C misdemeanor punishable by a maximum fine of One Hundred Dollars (\$100.00).

CHAPTER 7.16

FIREARMS AND BOWS

Sections:

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| 7.16.01 | Firearms |
| 7.16.02 | Exception |
| 7.16.03 | Bows |
| 7.16.04 | Fine |
| 7.16.05 | Repeal |

7.16.01 Firearms It shall be unlawful for any person, except as provided in Section 2, to discharge or fire any firearm, air rifle, pellet gun or similar device within the corporate limits of the city of Pea Ridge, Arkansas. (Ord. No. 192, Sec. 1.)

7.16.02 Exceptions

- A. 7.16.01 shall not apply to a duly authorized law enforcement officer while in the performance of his duties.
- B. 7.16.01 shall not apply where an individual discharges a firearm in order to prevent a felony involving force or violence unless the individual is able to avoid doing so with complete safety.
- C. 7.16.01 shall not apply where an individual discharges a firearm in order to prevent the endangerment of the individual's life or another's life unless the individual is able to avoid doing so with complete safety. (Ord. No. 507, Sec. 1.)

7.16.03 Bows It shall be unlawful for any person to discharge a long bow, compound bow, cross bow or similar device designed to launch a projectile having a draw weight in excess of ten (10) pounds within the corporate limits of the city of Pea Ridge, unless the following requirements and conditions are met:

- A. The arrow or other projectile is shot at a backstop constructed of suitable material having the capability of stopping the arrow or projectile while same is generating or having up to eighty (80) foot pounds of energy at any given time during its flight.
- B. Backstops must contain at least sixteen (16) square feet of area on the target side and must be not less than four (4) feet square.
- C. Arrows or other projectiles shall not be shot in a direction that might result in injury to persons or damage to property if the arrow or projectile misses the backstop. (Ord. No. 517, Sec. 3.)

7.16.04 Fine A violation of this ordinance shall constitute a misdemeanor and any person found guilty thereof shall be fined in a sum not less than Twenty-Five Dollars (\$25.00) and not more than Five Hundred Dollars (\$500.00). Each violation shall constitute a separate offense and shall be punishable as provided herein. (Ord. No. 517, Sec. 3.)

7.16.05 Repeal Ordinance No. 20 of the ordinances of the city of Pea Ridge, Arkansas, and all other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. (Ord. No. 517, Sec. 3.)

CHAPTER 7.17

FIREWORKS

Sections:

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|---------|------------------------------|
| 7.17.01 | Definitions |
| 7.17.02 | Explosives |
| 7.17.03 | Use of fireworks |
| 7.17.04 | Public display |
| 7.17.05 | Sale of fireworks |
| 7.17.06 | Permit for sale of fireworks |
| 7.17.07 | Signs |
| 7.17.08 | Penalty |

7.17.01 Definitions As used in this chapter:

Fireworks means all articles of fireworks classified as Interstate Commerce Commission Class C common fireworks only and shall include those items described in A.C.A. 20-22-708.

Person means any corporation, association, co-partnership, limited liability company, trust or any other form of business entity or one (1) or more individuals.

Special fireworks means all articles of fireworks classified as Interstate Commerce Commission Class B explosives, except such dangerous items of fireworks prohibited by state law. (Ord. No. 521, Sec. 1.)

7.17.02 Explosives Except as otherwise provided by Arkansas law and in this chapter, it shall be unlawful for any person to use, detonate, ignite, cause to be ignited, or assist in the ignition, detonation, or use of explosives within the city of Pea Ridge. (Ord. No. 521, Sec. 2.)

7.17.03 Use of fireworks It shall be unlawful to use fireworks within the city except as set out herein:

- A. Fireworks may be discharged on private property as follows:
 - 1. From noon to midnight daily beginning July 1st through July 7th ;
 - 2. From noon December 31st to 1:00 a.m. January 1st .
- It shall be unlawful to discharge fireworks on private property without the property owner's consent.
- B. It shall be unlawful to use fireworks on any city street or city property.
- C. It shall be unlawful to use fireworks if the city is under a burn ban.
- D. The Mayor, Fire Chief, or Police Chief shall be authorized to declare an emergency and prohibit all use of fireworks upon a determination that such use would create a fire hazard.
- E. All persons using fireworks within the city shall promptly collect and remove any and all litter and debris resulting from such use.
- F. All persons using fireworks within the city shall comply with all applicable provisions of the Arkansas Fire Prevention Code and the city of Pea Ridge Fire Prevention Code. (Ord. No. 521, Sec. 3.)

7.17.04 Public display

- A. Any person holding a valid permit for use of special fireworks for public display issued by the Director of the Department of Arkansas State Police may use special fireworks within the city. Such use shall be in accordance with the rules and regulations promulgated by the Director of the Department of Arkansas State Police.
- B. Any person desiring to conduct a public display of special fireworks shall submit the appropriate permit for review to both the city Fire Chief and Police Chief, at least twenty-four (24) hours in advance of the proposed display, together with the proposed site of the display. (Ord. No. 521, Sec. 4.)

7.17.05 Sale of fireworks It shall be unlawful to sell fireworks within the city except as set out herein:

- A. Fireworks may be sold from June 20th to July 10th and December 10th to January 5th.
- B. It shall be unlawful to sell fireworks on any city street or city property without the consent of the city.
- C. All persons selling fireworks within the city shall comply with all applicable provisions of the Arkansas Fire Prevention Code and the city of Pea Ridge Fire Prevention Code.
- D. All permittees selling fireworks within the city shall have in place a general commercial liability insurance policy with coverage not less than \$1,000,000.00.
- E. All structures, permanent or temporary, used for the sale of fireworks must comply with all applicable provisions of the Arkansas Fire Prevention Code and the city of Pea Ridge Fire Prevention Code.
- F. The sale of fireworks shall be permitted only in zoning districts where the sale of fireworks is allowed and must comply with all applicable regulations for such district(s). (Ord. No. 521, Sec. 5.)

7.17.06 Permit for sale of fireworks Any person desiring to engage in the sale of fireworks within the city must hold a valid license issued by the Director of the Department of Arkansas State Police and must make application with the city upon such forms as the city may promulgate and require. The application shall be submitted with a fee of Two Hundred Fifty Dollars (\$250.00) per location. When issued, all permits shall specifically state the permittee's

name and the dates and location(s) for the sale of fireworks. Permits shall be valid for the specific period of time stated in the permit. (Ord. No. 521, Sec. 6.)

7.17.07 Signs The permittee shall be entitled to install one (1) freestanding sign, made of rigid materials, not to exceed thirty-two (32) square feet in size, which may be lighted, for each permitted location. Installation of signs shall conform to all city regulations. (Ord. No. 521, Sec. 7.)

7.17.08 Penalty Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense. Each day for which a violation continues shall be deemed a separate offense. (Ord. No. 521, Sec. 8.)

CHAPTER 7.20

CLAIMS AGAINST CITY

Sections:

- 7.20.01 Liability coverage
- 7.20.02 Settlement of claims

7.20.01 Liability coverage. The city shall carry liability coverage on all its motor vehicles in the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act.

STATE LAW REFERENCE - See A.C.A. 21-9-303

7.20.02 Settlement of claims. All persons having claims against the city may file them with the Mayor. The Mayor shall present them to the Council. The Council may grant a hearing for the claimant and may authorize a settlement.

STATE LAW REFERENCE - See A.C.A. 21-9-302

CHAPTER 7.24

STORAGE AND HANDLING

OF VOLATILE COMBUSTIBLES

Sections:

- 7.24.01 Restriction on keeping
- 7.24.02 Volatiles never to be allowed to pass into drainage system
- 7.24.03 Penalty

7.24.01 Restriction on keeping. Gasoline, naphtha, benzine, and other like volatile combustibles or their compounds in excess of a total of five (5) gallons, exclusive of that in tanks of automobiles, in combustion engines, or in approved portable wheeled tanks in public garages each not exceeding sixty (60) gallons capacity, shall not be kept within any building. Such total of five (5) gallons or less shall be kept only in cans approved by the Chief of the Fire Department. Any quantity in excess of five (5) gallons shall be kept only in a tank or tanks placed not less than two (2) feet beneath the surface of the ground or in an outside tank or tanks above ground and approved by the Chief of the Fire Department located not less than fifty (50) feet from the line of any adjoining property which may be built upon. The tank or tanks

shall be adequately and properly diked with a dike having capacity not less than equal in volume to that of the tank or tanks surrounded. No underground tanks shall be placed, constructed or maintained under a street, public sidewalk or in a sidewalk area.

7.24.02 Volatiles never to be allowed to pass into drainage system In no instance shall gasoline, naphtha, benzine and other like volatile combustibles or their compounds be allowed to run upon the floor or fall or pass into the drainage system of the premises. Self-closing metal cans shall be used for all oily waste or waste oils.

7.24.03 Penalty Any person who shall violate or fail to comply with any of the provisions of this chapter, or who shall violate or fail to comply with any order or regulation, shall upon conviction, be punished by a fine not exceeding One Hundred Dollars (\$100.00). The imposition of one (1) penalty for violation of this chapter shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and each day that any prohibited condition is maintained shall constitute a separate offense. The application of said penalty shall not be held to prevent the enforced removal of any prohibited condition as provided by this chapter.

CHAPTER 7.28**SOLICITORS, PEDDLERS, HAWKERS, ITINERANT MERCHANTS****Sections:**

- 7.28.01 Misdemeanor
- 7.28.02 Fine
- 7.28.03 Exceptions

7.28.01 Misdemeanor The practice of going in and upon private residences in the city of Pea Ridge, Arkansas, by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable as such nuisance as a misdemeanor. (Ord. No. 44, Sec. 1.)

7.28.02 Fine Any person convicted or perpetrating a nuisance as described and prohibited in the first section of this ordinance, shall be fined in a sum of not less than \$10.00 nor more than \$25.00 together with the costs of the proceeding. (Ord. No. 44, Sec. 2.)

7.28.03 Exceptions That the provisions of this ordinance shall not apply to the sale, or soliciting of orders for the sale of fruits, vegetables or other products of the farm, including meat from domestic animals or livestock, so far as the sale of the commodities named herein is now authorized by law. (Ord. No. 44, Sec. 3.)

CHAPTER 7.36

PEA RIDGE COMMUNITY LIBRARY

Sections:

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| 7.36.01 | Established |
| 7.36.02 | Board of Trustees |
| 7.36.03 | Organization |
| 7.36.04 | Powers |
| 7.36.05 | Compensation |
| 7.36.06 | Privileges |
| 7.36.07 | Donations |
| 7.36.08 | Reports |
| 7.36.09 | Returning books |
| 7.36.10 | Fine |
| 7.36.11 | Supplementary ordinance |

7.36.01 Established There is hereby created and established the Pea Ridge Community Library and a Board of Trustees to be composed of five (5) citizens chosen with reference to their fitness for such office. (Ord. No. 93, Sec. 1.)

7.36.02 Board of Trustees Said Board of Trustees shall be appointed by the Mayor and be approved by the City Council, and they shall hold office for a term of six years; provided, however, that the trustees first appointed shall hold office as follows: Two shall hold office for two years; two shall hold office for four years; and one shall hold office for six year; from the 1st day of January following their appointment in each case. At the first meeting of said Board of Trustees they shall cast lots for their respective terms, reporting the result of said lot to the City Council. All subsequent terms shall be for six years. The removal of any trustee permanently from the city of Pea Ridge, or his absence from four consecutive meetings of the Board without due explanation of absence, shall render his office, as trustee, as vacant. Vacancies on the Board shall be filled by the Mayor with the approval of the City Council. (Ord. No. 93, Sec. 2.)

7.36.03 Organization The said trustees of the Pea Ridge Community Library shall, immediately after their appointment, meet and organize by the election of one of their number as President, and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules and regulations for their guidance as they see fit. They shall meet once a month, and more often if necessary, for the transaction of business. (Ord. No. 93, Sec. 3.)

7.36.04 Powers All money received for library purposes, whether by taxation or otherwise, shall belong to and be designated as the Pea Ridge Community Library Fund and shall be paid into the City Treasury and be kept separate and apart from other funds of such city and be drawn upon by the proper officers upon the properly authenticated vouchers of the Library

Board. Said Board shall have exclusive control of the expenditures of all moneys collected to the credit of the library fund and of the construction of any library building, and the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose. The Board shall have the power to purchase or lease ground, or to purchase, lease, erect and occupy any appropriate building or buildings for the use of said library. When a building erected or purchased by the Board is not adapted to its purposes or needs, the Board may remodel or reconstruct such building. The Board may sell or otherwise dispose of any real or personal property that it deems no longer necessary or useful for library purposes. Said Board shall have the power to appoint a librarian qualified by education, training, experience and personality, who shall serve at the will of the Board. They shall have power to appoint necessary assistants and other members of the staff, basing their appointment on the recommendation of the librarian. Said Board shall have the power to make necessary rules and regulations for administering the library and shall make provisions for representation at library conventions. (Ord. No. 93, Sec. 4.)

7.36.05 Compensation The Board of Trustees shall receive no compensation for their service and shall, before entering upon the duties of their office, make an oath or affirmation before some judicial officer to discharge the duties enjoined on them. (Ord. No. 93, Sec. 5.)

7.36.06 Privileges The Board of Trustees may extend the privilege and use of such library and reading rooms to persons residing outside the city of Pea Ridge, Arkansas, upon such terms and conditions as the said Board may from time to time by its regulations prescribe. The Board may also contract for library service with the County Quorum Court or with the municipal authorities of a neighboring city, town, or village, or with school authorities. (Ord. No. 93, Sec. 6.)

7.36.07 Donations Any person desiring to make donations of money, personal property, or real estate, for the benefit of such library, shall have the right to vest the title to the money or real estate so donated in the Board of Trustees created under this ordinance, to be held and controlled by such Board, when accepted, according to the terms of the deed, gift, devise or bequest of such property; and as to such property the said Board shall be held and considered trustees. (Ord. No. 93, Sec. 7.)

7.36.08 Reports At the end of each fiscal year, the Board of Trustees shall present a report of the condition of the trust to the City Council of the city of Pea Ridge, Arkansas. This report shall be verified under oath by the Secretary. It shall contain:

- A. an itemized statement of the various sums of money received from the library fund and other sources;
- B. a statement of the number of books and periodicals available for use, and the number and character thereof circulated;
- C. a statement of the real and personal property received by devise, bequest, purchase, gift or other wise;

- D. a statement of the character of any extension of library services which may have been undertaken;
- E. a statement of the financial requirements of the library for the ensuing year;
- F. any other statistics, information or suggestions that might be of interest.

A copy of this report shall be filed with the Arkansas Library Commission. (Ord. No. 93, Sec. 8.)

7.36.09 Returning books It is unlawful for any person who checks out or otherwise removes any books or other materials from the Pea Ridge Community Library to fail or refuse to return such books or materials to the Pea Ridge Community Library or to pay the replacement costs of lost books and materials or to pay the cost of repair resulting from injury caused to such books or materials after written notice, by ordinary mail, addressed to the last-known address of the person who checked out or otherwise removed the books or materials from the Pea Ridge Community Library notifying them that if the books or materials are not returned or the cost of repair or replacement is not paid to the library within thirty (30) days from the date of the notice, charges will be filed against them under the provisions of this ordinance and upon conviction such person may be fined in an amount as provided in Section 2. (Ord. No. 164, Sec. 1.)

7.36.10 Fine Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) and each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Further, the Pea Ridge Community Library may refuse the use of the library to such offenders. (Ord. No. 164, Sec. 2.)

7.36.11 Supplementary ordinance Nothing herein shall be construed as in any way affecting or terminating a system of administrative fines and sanctions now or hereafter employed by Pea Ridge Community Library in connection with its program of lending books and other materials, but shall be supplementary thereto. (Ord. No. 164, Sec. 3.)

CHAPTER 7.40

SWIMMING POOL BARRIERS

Sections:

- 7.40.01 Definitions
- 7.40.02 Barriers required

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| 7.40.03 | Covers required |
| 7.40.04 | Compliance |
| 7.40.05 | Exemption |
| 7.40.06 | Applicability |
| 7.40.07 | Inspections |
| 7.40.08 | Penalty |

7.40.01 Definitions

Barrier A fence, wall, building wall, or a combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

Cover An apparatus that is placed over a hot tub or spa and encloses the entire water surface contained within the unit and is designed to be securely attached to the unit when not in use.

Hot tub an aboveground or onground structure intended for recreational bathing, designed to allow the water to be heated and forced through jets, in which bathers would usually soak, and which has a maximum water depth of thirty-eight (38) inches. All onground structures of this nature and units with a maximum depth exceeding 38" shall be considered swimming pools.

Spa See "Hot tub."

Swimming pool Any structure intended for swimming or recreational bathing that has the capacity to contain water more than twenty-four (24) inches deep and including inground, aboveground and onground swimming pools.

Wading pool Any constructed or pre-fabricated pool twenty-four (24) inches or less in depth and which does not include a water filtration system.

7.40.02 Barriers required All swimming pools as defined herein shall be fully enclosed by a barrier measuring at least forty-eight inches above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two inches measured on the side of the barrier which faces away from the swimming pool. Openings in the barrier shall be no more than four-inches in diameter or width. Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints. All barriers shall be equipped with access gates which shall have a self-locking device, and which shall be kept closed at all times. In the case of aboveground pools, the wall of the structure may be used as a barrier, or part of a barrier, so long as the total height of the barrier measures at least forty-eight inches above grade, as required herein. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a

ladder or steps, then the ladder or steps either shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier which meets the requirements herein described. When the ladder or steps are secured, lock or removed, any opening created shall not be more than four-inches in diameter or width. (Ord. No. 264, Sec. 2.)

7.40.03 Covers required All hot tubs and spas, as defined herein, which are not enclosed within a barrier must be equipped with a cover sufficient to prevent any person from falling or climbing into the unit when not in use. Said cover must be kept in place at all times when the unit contains water but is not in use. (Ord. No. 264, Sec. 3.)

7.40.04 Compliance All owners of existing swimming pools are hereby required to comply with the provisions of this ordinance within six months of the date or passage hereof. all owners of swimming pools under construction at the date or passage hereof and all owners of swimming pools constructed after the date of passage hereof shall comply with the provisions of this ordinance before any water is placed in the swimming pool. All owners of hot tubs and spas are hereby required to comply with the provisions of this ordinance within one month of the date of passage hereof. (Ord. No. 264, Sec. 4.)

7.40.05 Exemption All owners of existing swimming pools that are surrounded by existing barriers at the time of passage hereof shall be exempt from the provisions of this ordinance if the barrier is approved by the City Inspector. Owners should immediately contact the City Inspector's office and arrange an inspection of the existing barrier. The Building Inspector will provide the owner with a certificate of approval. (Ord. No. 264, Sec. 5.)

7.40.06 Applicability This ordinance shall apply to all swimming pools, hot tubs and spas as defined herein and shall exclude wading pools as defined herein. (Ord. No. 264, Sec. 6.)

7.40.07 Inspections The Building Inspector and officers of the Pea Ridge Police Department are hereby authorized to enter onto any premises for the purpose of determining whether this ordinance has been complied with. Should the inspection yield evidence of a violation, the owner may be summoned to court for such violations. (Ord. No. 264, Sec. 7.)

7.40.08 Penalty Any person or persons violating this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and fined in a sum not less than \$25.00 nor more than \$250.00. Each day that the violation continues shall be considered a separate offense. (Ord. No. 264, Sec. 8.)

CHAPTER 7.40

SEXUALLY ORIENTED BUSINESSES

Sections:

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| 7.40.01 | Definitions |
| 7.40.02 | Classification |
| 7.40.03 | Conditional use |
| 7.40.04 | Penalties |
| 7.40.05 | Subsequent location of certain other uses |

7.40.01 Definitions

Adult arcade - any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled image-producing devices are maintained to show images to five or fewer viewers at one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult bookstore or adult video store - a commercial establishment which as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

Books magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproduction, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas,"

Adult cabaret - a nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity; or
- B. Live performances which are characterized by the exposing of "specified anatomical areas" or by "specified sexual activities," or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions, which are characterized by the depiction of "specified sexual activities" or "specified anatomical areas."

Adult motion picture theater - a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown, excluding those which are rated by the Motion Picture Association of America, which emphasize "specified sexual activities."

Adult theaters - a theater, concert hall, auditorium or similar commercial establishment, which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

Nudity or state of nudity -

- A. The appearance of the bare human buttocks, anus, male genitals, female genitals or female breast.
- B. A state of dress that fails to opaquely cover a human buttocks, anus, male genitals, female genitals or areola of the female breast.

Person - an individual, proprietorship, partnership, corporation, association or other legal entity.

Sexually oriented business - an adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater or adult theater as the same are defined herein.

Specified sexual activities -

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Act of human masturbation, sexual intercourse or sodomy;
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

Specified anatomical areas -

- A. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the areola; and
- B. Human male genitals in a discernible turgid state even if completely and opaquely covered. (Ord. No. 272, Sec. 2.)

7.40.02 Classification Sexually oriented businesses are classified as follows:

- A. Adult arcade;
 - B. Adult bookstores or adult video stores;
 - C. Adult cabarets;
 - D. Adult motion picture theaters;
 - E. Adult theaters
- (Ord. No. 272, Sec. 2.)

7.40.03 Conditional use Sexually oriented businesses shall not be allowed in any zoning district except C-2 where they may be allowed as conditional uses subject to the following:

- A. No sexually oriented business may be operated within 500 feet of:
 - 1. A church;
 - 2. A public or private elementary, secondary or post-secondary school; pre-school or child care facility.
 - 3. A public park.
- B. No sexually oriented business may be operated:
 - 1. Within 200 feet of a boundary of a residential zone or any residential use;
 - 2. Within 400 feet of a residential zone or any residential use as measured by automobile travel distance from the exit of a sexually oriented business property to the property line of the residential zone or use.
 - 3. Within 1,000 feet of another sexually oriented business or within 200 feet of any room, building, premises, place or establishment that sells or dispenses alcohol or beer.
 - 4. For the purpose of these regulations, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district or residential lot. (Ord. No. 272, Sec. 2.)

7.40.04 Penalties

- A. Any person operating or causing to be operated any sexually oriented business in violation of any part of these regulations, shall, upon conviction, be deemed guilty of a misdemeanor and may be fined in any amount not to exceed Five Hundred Dollars (\$500.00).
- B. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed Two Hundred Fifty Dollars (\$250.00) for each day that the same is unlawfully continued.
- C. A person who operates or causes to be operated a sexually oriented business in violation of this ordinance will be subject to a suit for injunction as well as prosecution for criminal violations. (Ord. No. 272, Sec. 2.)

7.40.05 Subsequent location of certain other uses A lawfully operating sexually oriented business shall not be rendered illegal by the subsequent location of a church, a public or private school, a pre-school, a child care facility, a public park, residential zoning, or residential uses. (Ord. No. 272, Sec. 2.)

CHAPTER 7.45**PROHIBITION OF MARIJUANA SMOKING IN PUBLIC PLACES**Sections:

- 7.45.01 Prohibition of Marijuana Smoking in Public Places
- 7.45.02 Definition of Public Places
- 7.45.03 Penalty

7.45.01 Prohibition of Marijuana Smoking in Public Places. The smoking of marijuana, whether medical marijuana or not, is prohibited in public places in the city.

7.45.02. Definition of Public Places. As used in Section 7.45.01, public places shall mean any place to which the public or a substantial group of the public has access and includes, but is not limited to streets, public rights of way, sidewalks, highways, parks, and the common areas of schools, places of worship, hospitals, apartment buildings, transport facilities, commercial buildings, and shops. A public area shall not include the yard, porch, or balcony of a private residence.

7.45.03. Penalty. The smoking of marijuana in a public place shall be considered a violation. Upon being convicted of a first offense, the person so convicted shall be fined not less than \$50.00 nor more than \$150.00. Upon being convicted of a second offense, the person so convicted shall be fined not less than \$100.00 nor more than \$300.00. Upon being convicted of a third or subsequent offense, the person so convicted shall be fined not less than \$200.00 nor more than \$500.00. (Ord. No. 650).